

**Westwood Planning Board
Wednesday, March 4, 2020
Meeting Minutes
Champagne Meeting Room, 50 Carby Street**

Board Members Present: Chair Brian Gorman, Vice Chair Debbie Conant, Secretary Chris Pfaff, Dave Atkins, and Bill Delay.

Also present were Town Planner Abby McCabe who recorded the minutes and the Planning Board's Special Legal Counsel Attorney Lauren Goldberg from KP Law.

Call to Order: 7:00 pm

Chair Gorman called the meeting to order and announced that the meeting is being video recorded by Westwood Media Center and asked if anyone else wished to record, no one identified themselves. Chair Gorman explained the meeting procedures and asked everyone to turn off their phones. He explained that this special meeting of the Planning Board was called with the only agenda item to review the Open Meeting Law complaints received on February 5, 2020.

Mr. Gorman explained that upon receipt of two violation complaints he notified and provided the complaints to all board members by email and directed staff to forward to all board members. This meeting was scheduled on February 11th and was called to respond to these complaints this evening due to mass laws to the Attorney General with all board members present.

Mr. Gorman asked Mr. Pfaff if he had any evidence to provide that supports the allegations of his complaint that says there must have been discussion among three members Conant, Delay, and Gorman outside of a public meeting related to the January 28, 2020 meeting agenda.

Mr. Pfaff said that the evidence is outlined in the statements written in his complaint that was submitted and he stands by his provided statements. Mr. Pfaff added that the purpose of this meeting is for the Planning Board to provide a response to the complaint.

Mr. Gorman asked Mr. Atkins if he had any evidence to support his allegations in his complaint that at the meeting of January 28, 2020 his complaint says he believes three members Conant, Delay, and Gorman violated open meeting laws.

Mr. Atkins responded that his complaint is based on evidence from his observations during the January 28th meeting that is represented on the meeting video tape, specifically the way in which three board members voted so quickly on a motion without any discussion on a matter that was raised, seconded and voted on when there was no notification on the agenda or prior discussion of the topic. When Mr Atkins was asked if there was any evidence to support his allegation in his complaint he stated "I don't know if there is any evidence outside of the meeting or I would have included it". (A vote was taken on May 21, 2020 to add the last sentence of this paragraph to the minutes)

Mr. Gorman said that attorney Goldberg will provide a response to the Attorney General on behalf of the Planning Board, a copy of which will be provided to the Board, and he would call a meeting of the Planning Board to review the draft response.

Town Planner Ms. McCabe informed the Board that the Town has hired attorney Lauren Goldberg to assist the Planning Board in this matter as the Planning Board's Special Legal Counsel and Ms. Goldberg is here tonight to guide the Board in this process.

Ms. Goldberg said that typically at this stage the Board will discuss and vote on how to respond tonight with how the Board wants to resolve the Open Meeting Law complaints and she would type up the response the Board gives and submit to the Attorney General. She explained that the Attorney General's office extended the response deadline to March 13th. The Board could schedule another meeting before that time or the Board could discuss and vote on how to respond tonight. Typically the Board would make a vote on how to respond and it's within the Board's discretion and vote of the Board on what the details of that response will be. Ms. Goldberg advised the Board to discuss the complaints and how to resolve them.

Mr. Horn introduced himself as an attorney representing board member Brian Gorman, along with attorney Thomas O'Loughlin. Mr. Horn said that there is no evidence to support these claims so they will advise their client on how to respond to these claims in the letter that will go to the attorney general's office.

Mr. O'Loughlin said that the board does not have to vote. He said that the special legal counsel can prepare the letter for the Board to review and the board can then approve it. He said the Board members are not obligated to make any motions or vote to reach any conclusion on this tonight. He said this is case is very different because the complaints were submitted by two board members. He said that Special Counsel should draw up a response letter.

Special Legal Counsel Attorney Goldberg explained that she is acting as Town Counsel and not representing any specific board member, she is representing the Planning Board. Her role is not to weigh in on if there was any violation that has occurred. Her job is to advise the Planning Board as to their responsibilities in dealing with such a complaint. She explained that it is not Counsel's role to weigh the evidence and to determine whether there was or was not any open meeting law violation that is the Board's decision. If the Board does not respond then no response will be provided to the Attorney General.

Mr. O'Loughlin said that he agrees with his sister. He said the Board is not required to respond if there was a violation or not. He said Counsel can provide a letter with what was said tonight and the Attorney General will respond and make a judgement.

Ms. Goldberg informed the Board that the Attorney General's typically wants Boards to try to resolve the matter on their own by discussing how they will respond, how they can resolve with any remedial action, and what they will do in response to the complaints received. She explained that the purpose of the Open Meeting Law is for the public to hear the Board's deliberation on the response to these complaints. If the Board is not going to discuss a response then this could have been done at the original meeting in February when she and the Board members were all present.

Mr. Gorman said he wants to see her draft response, review it with all the board members prior to submitting to the Attorney General.

Ms. Goldberg responded that if the Board does not intend to take any votes or actions on what the response will be then the Board should give her direction on that letter tonight so that she can prepare the letter.

Mr. O'Loughlin said that a vote is not necessary and is irrelevant with the Board's business. He believes no vote is needed.

Mr. Horn added that the two individuals that provided the complaints did not provide any evidence tonight.

Ms. McCabe recommended the Board discuss tonight what the letter will say because this is the purpose of this special meeting was called. The Board should advise as to the content on what the response to the Attorney General's office is going to be.

Attorney Thomas V. Ralph, representing Board Member Debora Conant, was recognized by the Chair and he stated that he sent a written request to the Town of Westwood dated February 11, 2020, requesting information in the Town's possession concerning the open meeting law violation that was alleged in the aforementioned complaints and nothing was forthcoming from the complainants or the Town. He stated that he read the complaints, and that they just stated that it was their beliefs that these things were happening. He once again asked, to ensure if there was any additional information to substantiate the claims, whether there was any additional emails, other documentation from any member of the Planning Board that references the open meeting violation complaint, or other entities within the town that would be relevant for the purposes of addressing the concerned allegations. No response was received from either of the complainants or any of the present Town officials to include but not be limited to the Town Administrator, the Town Planner or the Special Town Counsel. He asked if the minutes from the meeting of the January 28, 2020 meeting were available, and the Board responded that they were not.

On a motion made by Ms. Conant, seconded by Ms. Delay, the Planning Board voted to adjourn at 7:20 pm.

List of Exhibits:

Open Meeting Law Complaint filed by David Atkins, received February 5, 2020.

Open Meeting Law Complaint filed by Christopher Pfaff, received February 5, 2020.

Link to [Westwood Media Center's recording of January 28, 2020](#) Planning Board Meeting

Letter from Assistant Attorney General Carrie Benedon, to Lauren F. Goldberg, Esq., RE: Request for extension to respond to complaints, dated February 13, 2020.